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SUBJECT: WIPO on Intellectual Property Financing

¶1. SUMMARY: At a WIPO meeting on Intellectual Property (IP) Financing, participants highlighted national experiences, discussed challenges in using IP for financing, and explored solutions to those challenges.

END SUMMARY.

¶2. The World Intellectual Property Organization (WIPO) hosted an Information Meeting on Intellectual Property (IP) Financing at WIPO Headquarters in Geneva on March 10, 2009. The meeting was open to the public. Presentations were given by academics and specialists in the field of IP financing, representatives from industries, banking institutions, and officials working on the UNCITRAL (United Nations Commission on International Trade Law) Legislative Guide on Secured Transactions and on security interests in IP rights. The challenges in leveraging IP for financing include: sound valuation of IP for securitization; lack of understanding from the financial community to use IP secured financing; and lack of an adequate legal framework for financing IP assets. On-going work at UNCITRAL is attempting to address the last challenge. WIPO plans to play a role to address the other two challenges, in partnership with other relevant institutions.

¶3. In the current uncertain economic climate, IP financing (the use of IP assets to gain access to finance) is of growing economic importance.

Global commerce in the emerging IP asset class is worth an estimated USD 300 billion worldwide annually, and some 80 percent of corporate value today is represented by intangible assets. The financial potential of IP assets is currently limited, however, by financial systems and policies that are still largely geared to dealing with tangible assets.

¶4. For some years, deals involving the securitization of intangible assets have enabled owners of IP rights to borrow money more easily and safely from lenders. IP asset-backed securitizations are most common in the film and music industries, but the practice is increasing in the biotechnology and software industries. Some high profile examples of such transactions include the securitized royalty streams on the copyrights owned by famous musicians. For example, in 1997, David Bowie issued 10-year bonds on the basis of future royalties on publishing rights and master recordings from 25 pre-recorded albums, raising USD 55 million. The purchaser of the bonds gained the right to receive future royalties from Bowie's albums until the principal plus 8 percent annual interest was repaid. Another example is Nickolas Ashford and Valerie Simpson, songwriters and producers of hit songs including *Q Ain't No Mountain High Enough*, who used the copyright on 247 of their songs as assets to back bonds, raising USD 25 million.

¶5. At the WIPO Information meeting, it was noted that IP financing occurs in many countries in a range of industries using a variety of financial mechanisms, but success depends on legal and regulatory support, as well as the awareness of the banking industry and development of capital markets. IP financing has great potential in developing countries, particularly small and medium-sized enterprises which rely upon their knowledge and IP assets as the main source of funding. In this context, IP financing can provide an accessible source of relatively inexpensive funding, and encourage further innovation and creativity.

¶6. In many developing as well as developed countries, however, levels of awareness of IP assets-based financing remain low, and progress is needed to tap this potential. The issue is the subject of international policy development at UNCITRAL. In 2000, UNCITRAL established a Working Group to address security rights in personal property, including intangible assets. The Working Group was given the mandate to develop recommendations for an efficient legal regime for security rights in goods involved in commercial activity, including intangible assets, and to identify the issues to be addressed, including the form of the instrument and the exact scope of assets that could serve as security.

¶7. The decision to undertake work in the area of secured credit law was taken in response to the need for an efficient legal regime that would remove legal obstacles to secured credit and could thus have a beneficial impact on the availability and the cost of credit. In 2007, UNCITRAL concluded a Legislative Guide that contains recommendations for a uniform legal regime for secured financing, which also covers IP financing.

¶8. The WIPO Information Meeting raised awareness among Member States^Q copyright and industrial property offices, and the wider IP community, of the opportunities and challenges of IP financing by drawing attention to current practices in different countries and different industries, including in the copyright, patent and trademark fields. The meeting also highlighted the ways in which improvements in laws or financing practices could assist IP rightholders to manage their IP assets for greater value. WIPO plans to assist Member States in setting-up appropriate national strategies in the field of IP. WIPO has developed a questionnaire for Member States to answer concerning their policies and laws on IP financing. Responses to the questionnaire will be distributed to Members in June 2009.

¶9. Further information, including the presentations, is freely available online at: http://www.wipo.int/meetings/en/2009/ip_fin_g_e_09_program.html

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